

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In re Request of )  
 )  
United States Department of State )  
 )  
For Modification of Authorization )

**MEMORANDUM OPINION AND ORDER**

**Adopted: August 19, 2004**

**Released: August 19, 2004**

**By the Deputy Chief, International Bureau:**

1. This Order addresses a request by the United States Department of State that the Commission modify the authorization it granted to the United States Information Agency (USIA) to use Channel 13 for TV Marti facilities.<sup>1</sup> The Commission's original authorization to USIA assigned Channel 13 to USIA for use by TV Marti facilities to broadcast television programming to Cuba.<sup>2</sup> The Department of State's request seeks to amend that authorization to allow TV Marti to operate facilities at variance from the Commission's original authorization. As discussed below, we grant the request, subject to conditions to ensure the new TV Marti facilities do not cause harmful interference to Commission licensees.

2. In the Television Broadcasting to Cuba Act ("Act"), Congress determined that the national interest would be served by television broadcasts to Cuba.<sup>3</sup> The Act authorizes the Commission to "assign by order a suitable frequency to further the national interests expressed in [the Act], except that no such assignment shall result in objectionable interference with the broadcasts of any domestic licensee."<sup>4</sup> Accordingly, the Commission in 1991 granted USIA's original request and assigned Channel 13 to USIA for use by its TV Marti facilities.

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<sup>1</sup> Letter from Roger F. Noriega, Assistant Secretary of State, Bureau of Western Hemisphere Affairs, United States Department of State, to Donald Abelson, Chief, International Bureau, Federal Communications Commission, dated August 18, 2004 (*Department of State letter*). The Commission granted its original authorization to use Channel 13 to the United States Information Agency (USIA), for use by its TV Marti service. The Broadcasting Board of Governors (BBG) is now responsible for TV Marti. Therefore, the Department of State requests that the Commission amend the allocation of Channel 13 to BBG.

<sup>2</sup> See *In re Request of United States Information Agency*, 6 FCC Rcd 1714 (1991), as modified by Letter of Roy J. Stewart, Chief, Mass Media Bureau, to Joe Bruns, Acting Director, Voice of America, dated July 26, 1993, and 10 FCC Rcd 4514 (1995).

<sup>3</sup> See 22 U.S.C. § 1465aa(3). Television Broadcasting to Cuba Act, in Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, Part D of Title II, Pub. L. No. 101-246 Stat. 58, Section 242(3).

<sup>4</sup> 22 U.S.C. § 1465bb(d)(1).

3. The Department of State requests that the Commission amend TV Marti's authorization to implement a directive from President Bush to undertake new broadcasts into Cuba from TV Marti.<sup>5</sup> The Department of State notes that the directive flows from the recommendations of the report to the President of the Commission for Assistance to a Free Cuba.<sup>6</sup>

4. In accordance with the Television Broadcasting to Cuba Act, and in recognition of the foreign policy interests noted by the Department of State, we grant the Department of State's request and allow TV Marti to operate Channel 13 facilities with technical parameters at variance from those the Commission has previously authorized. To ensure compliance with the Act's requirement that operations shall not result in objectionable interference to domestic licensees, the modified Channel 13 facilities must operate on a non-interference basis. In addition, the Commission will evaluate the impact of operations by the modified facilities on domestic licensees on a weekly basis. Operations on the modified facilities must cease if the Commission determines, either through its own monitoring or from complaints by licensees, that they are causing harmful interference to Commission licensees. Finally, to ensure efficient utilization of the spectrum, we will authorize the modified facilities for a limited period of six months from the effective date of this Order. At the end of that period, we will evaluate any request to extend authorization of the modified facilities.

5. As this change to the TV Marti authorization carries out the mandate of the Television Broadcast to Cuba Act and reflects foreign policy determinations made by Congress and the President, we find for good cause that public notice and comment thereon is unnecessary.<sup>7</sup>

6. Accordingly, IT IS ORDERED that TV Marti may operate Channel 13 television facilities with technical parameters at variance from those previously authorized by the Commission. Such operations shall be permitted for a period of six months from the effective date of this Order.

7. IT IS FURTHER ORDERED that TV Marti's operations on Channel 13 be on a non-interference basis and that such operations must cease if the Commission determines that they are causing harmful interference to Commission licensees.

8. IT IS FURTHER ORDERED that this Order shall be effective immediately upon release.

FEDERAL COMMUNICATIONS COMMISSION

Anna M. Gomez, Deputy Chief  
International Bureau

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<sup>5</sup> See *Department of State letter*.

<sup>6</sup> *Id.*

<sup>7</sup> See 5 U.S.C. § 553(a)(1), (b)(3)(B).